

**AN ORDINANCE
BY COUNCILMEMBER JOYCE M. SHEPERD**

10-0 -0928

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA CHAPTER 2, ARTICLE IV, SECTION 2-195 TO EXPAND THE FUNCTIONS AND DUTIES OF THE ATLANTA WORKFORCE DEVELOPMENT AGENCY; TO INSERT A NEW ARTICLE XI ENTITLED THE ATLANTA COMMUNITY BENEFITS JOBS POLICY, WHICH NEW ARTICLE XI SHALL INCLUDE DIVISION 1 – GENERAL PROVISIONS, DIVISION 2 – FIRST SOURCE JOBS POLICY, DIVISION 3 – ATLANTA JOBS TRAINING AND EMPLOYMENT PLACEMENT POLICY, AND DIVISION 4 – ATLANTA FIRST SOURCE AND JOBS TRAINING OVERSIGHT COMMITTEE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta measures high on national poverty indices, having many neighborhoods throughout the City where 40% or more of the residents are living below the federal poverty level; and

WHEREAS, many residents in these high poverty areas do not possess the job skills or education that would allow them to enter the employment market and to remain employed; and

WHEREAS, in 2007, 35% of City residents had no more than a high school education, and the unemployment rate for the city was 9/3%, compared to 7.2% for the region overall; and

WHEREAS, the City enters into numerous contracts, which contracts result in the party having to employ individuals to fulfill and perform the work required under the contract, and these contracts are funded by public dollars;

WHEREAS, the City has previously enacted a First Source Jobs Policy to create employment opportunities for low-income city residents from contracts let by the City;

WHEREAS, the City plans, facilitates, encourages, stimulates, and supports numerous large development projects which involve public and private sector interests, such as the Atlanta BeltLine, and in so doing, the City often provides directly, or through affiliated entities, such as the Atlanta Development Authority, subsidy to the projects.

WHEREAS, it is the desire and the intention of the Atlanta City Council that the city expenditure of funds pursuant to certain city contracts and through the provision of subsidy to large development projects should provide a benefit to the City's communities in the form of

greater job training and employment opportunities for low-income unemployed and underemployed City residents;

WHEREAS, it is the desire and intention of the Atlanta City Council that the First Source Jobs Policy Advisory Board be reconstituted into a larger First Source and Jobs Training and Employment Placement Oversight Committee.

NOW THEREFORE, the Council of the City of Atlanta, Georgia hereby ordains as follows:

SECTION 1. That Chapter 2, Article IV, Section 2-195 [of the City of Atlanta Code of Ordinances?] is hereby amended to add a new subsection (5), which shall read as follows.

- (5) Administering the First Source Jobs Policy set forth pursuant to Division 2 of Article XI, Chapter 2 of this title and administering the Atlanta Job Training and Employment Placement Program set forth pursuant to Division 3 of Article XI, Chapter 2 of this title.

SECTION 2. That Chapter 2, Article XI, of the City of Atlanta Code of Ordinances is hereby amended to delete the current Article in its entirety and to insert in lieu thereof the following Article, so that said Article shall read as follows.

Article XI. Atlanta First Source, Job Training, and Employment Placement Program

Division 1. General Provisions

Sec. 2-1651. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apprentice means any person who is enrolled in a Certified Apprentice Program and who either (a) has resided in the City for at least 6 of the 18 months preceding commencement of employment under a Construction Contract or (b) has resided in an Atlanta Housing Authority housing project for at least six months during the 5 years preceding enactment of this Ordinance.

AWDA means the Atlanta Workforce Development Agency.

Beneficiary means the immediate recipient from the City of any Subsidy in an amount equal or greater to \$250,000.

Certified Apprentice Program means a program that is registered with the U. S. Department of Labor that trains participants in construction skills related to specific trades and occupations, and that either (a) has a continuous track record of at least five years in the successful placement of Trainees into employment in the construction trades, or (b) enters into a written agreement with a Pre-Apprenticeship Program to admit and successfully place substantial numbers of Trainees into employment in the construction trades.

City means the City of Atlanta, Georgia and any and all City-controlled entities, agencies, or authorities, including, but not limited to, the Atlanta Development Authority and its affiliated and interlocking agencies and authorities, including Atlanta Beltline, Inc., the Downtown Development Authority of Atlanta and the Urban Residential Finance Authority.

Construction Contract means a contract for the performance of construction work on a Covered Project that is in a face amount of \$250,000 or more.

Construction Contractor means any person, firm, partnership, limited liability company, corporation, joint venture, proprietorship, trust, unincorporated association or other entity, whether profit or nonprofit, that enters into a Construction Contract, and subcontractors of any tier, regardless of the subcontract amount.

Covered Project means any (a) construction project undertaken pursuant to a contract with the City, and with a dollar value equal to or greater than \$250,000; (b) any development project receiving a Subsidy; (c) any project that is the subject of a Development Agreement; or (d) any project that will be constructed on City-owned or leased land.

Developer means any person, firm, partnership, limited liability company, corporation, joint venture, proprietorship, trust, unincorporated association or other entity, whether profit or nonprofit, that enters into a Development Agreement with the City, or is developing a project receiving a Subsidy, or is developing a project that will be constructed on City-owned or -leased land.

Development Agreement means an agreement to which the City is a party and that is related the development, rehabilitation, or reuse of real property.

Employment Agreement means a contract meeting the standards set forth in Section 2-1658 below.

Employer means a Beneficiary, Construction Contractor, Developer, or End User that employs or plans to employ individuals in Permanent Jobs.

End User means any person, firm, partnership, limited liability company, corporation, joint venture, proprietorship, trust, unincorporated association, or other entity, whether profit or nonprofit, that assumes ownership of, leases, subleases, uses or otherwise gains lawful possession of premises located within a Covered Project.

First Source Register means a listing of Low-Income City Residents, including graduates of programs funded by the Workforce Investment Act (WIA), that is compiled and maintained by ADWA pursuant to Sec. 2-1657 below.

Low-Income City Resident means any resident of the City who is eligible for Workforce Investment Act (WIA) services, which includes any recipient of food stamps or public assistance (AFDC, general assistance or SSI), any member of a household with a family income at or below the poverty level as defined by the Federal Office of Management and Budget (OMB) or anyone

with a major barrier to employment such as the handicapped, veterans, teenage parents, high school dropouts, dislocated, laid-off or older workers. Such individuals must be at least 18 years old and, if not a high school graduate, must not have been enrolled in a secondary school or below within the past six months.

Permanent Job means any non-construction position that is performed on-site at a Covered Project.

Pre-Apprenticeship Program means a job training program a majority of whose enrollees are Low-Income City Residents and that prepares individuals to enter into a Certified Apprenticeship program by providing them with skills training that provides an initial introduction to the construction industry, that increases literacy and mathematical skills, and that increases life skills.

Prevailing Wage means the applicable prevailing wage rate set annually by the U.S. Department of Labor for wages and benefits being paid in the Metropolitan Atlanta region for each job classification.

Program means the Atlanta First Source, Job Training and Employment Placement Program established by this article.

Skilled Construction Worker means any person who has completed a Certified Apprentice Program and who either (a) has resided in the City for at least 6 of the 18 months preceding commencement of employment under a Construction Contract or (b) has resided in an Atlanta Housing Authority housing project for at least six months during the 5 years preceding enactment of this Ordinance..

Subsidy means direct or indirect assistance by the City that benefits a private party and that causes the City to incur a material cost or to make a material expenditure of public funds, including, but not limited to, grants or loans administered by the City, proceeds from tax allocation district bonds, tax abatements or deferrals, infrastructure improvements made for the purpose of facilitating or supporting a redevelopment project, land sale, or a ground lease.

Trainee means a Low-Income City Resident that is enrolled in a Pre-Apprenticeship Program listed on the registry established pursuant to Section 2-_____

Trust Fund shall mean the trust fund established pursuant to Section 2-1653 of this Division.

Sec. 2-1652 Severability.

If any provision of this article shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this article.

Sec. 2-1653 Trust Fund.

There shall be a trust fund established for the purpose of providing funds for the administration of the Program. Each Beneficiary or Developer shall pay into the Trust Fund an amount equal to 1.5% of the total amount of Subsidy received by that Beneficiary or Developer related to any Covered Project. Such payments shall be made on a pro rata basis as project cost are paid over the course of development or completion of the Covered Project, and such payments shall be deposited into Account Number _____. Funds shall not be used for any other purpose unrelated to the administration of the Program.

Section 2-1654 Intergovernmental Agreements; Bid Specifications.

The City shall include in any intergovernmental agreement to which it becomes a party, bid specification it issues, or other similar document relating to Subsidy or a Covered Project, provisions that ensure compliance with this article by the appropriate parties.

Division 2. First Source Jobs Policy

Sec. 2-1655. AWDA Duties

The duties of AWDA shall include the following:

- (1) Administration of this division.
- (2) Establishment of written procedures to effectuate this division.
- (3) Approval of Employment Agreements.
- (4) Provision of all necessary forms, applications, documents and papers necessary to comply with this article.

Sec. 2-1656 Office of Contract Compliance Duties

Working in conjunction with AWDA, the Office of Contract Compliance duties are:

- (1) Make determinations in writing as to whether Employers are in compliance with this division and any related AWDA procedures.
- (2) Make determinations as to whether any of the penalties set forth in section 2-1657 for noncompliance are appropriate.
- (3) Notify an affected party by registered mail that the party has the right to appeal a determination of noncompliance with this article to the contract compliance hearing officer within seven days of receipt of the notice of noncompliance.

- (5) Notify the chief procurement officer or other appropriate City officials of any determination of noncompliance with the requirements of this article and any appeal from such determination of noncompliance.

Sec. 2-1657. First Source Register.

- (a) AWDA shall compile and maintain a First Source Register.
- (b) In compiling and maintaining the First Source Register, AWDA shall contact the Georgia Department of Labor, community-based organizations, welfare agencies and any other agency whose primary target group is the economically disadvantaged.

Sec. 2-1658. First Source Hiring for Permanent Jobs.

- (a) In filling all Permanent Jobs, each Employer will review job applicants exclusively from the the First Source Register for a period of at least seven days prior to reviewing job applicants from any other source.
- (b) Each Employer will maintain as a goal that 50 percent of PermanentJobs under that Employer's control will be filled with individuals from the First Source Register
- (c) Each Employer will make good faith efforts to attain the above goal.
- (d) Each Employer will make good faith efforts to hire Low-Income City Residents for all Permanent Jobs that are under the Employer's control.
- (e) Each Employer will enter into an Employment Agreement with the City and ADWA that includes the above provisions of this Section.
- (f) Each Developer, with respect to a Covered Project, shall include with any deed, lease, sublease or other agreement or document relating to the sale, rental, lease, use, or operation of space within a Covered Project a provision requiring compliance with this Division.
- (g) Each Employer shall require the execution of an Employment Agreement by any transferee or assignee that, by virtue of the transfer or assignment, becomes or will become an Employer.

Division 3 Atlanta Construction Job Training and Employment Placement Policy

Sec. 2-1660 Pre-Apprenticeship Programs Registry.

AWDA shall develop and maintain a registry of Pre-Apprenticeship Programs. To be listed on the Pre-Apprenticeship Programs Registry, such program must provide reasonable evidence to AWDA that it is able to meet the objective of preparing students to enter a Certified Apprenticeship Program. Such evidence must include at minimum of a 120 hour curriculum that covers the topics of the Occupational Health and Safety Administration 10 hour construction safety training, CPR and First Aid Training and Certification, blueprint reading, orientation, math skills, industry history, industry awareness, and tools and materials. AWDA shall have the authority to develop whatever programs it deems desirable to identify, encourage, assist, and support the establishment and maintenance of Pre-Apprenticeship Programs in the City and to monitor the performance of such Pre-Apprenticeship Programs in fulfilling the mission of preparing Low-Income City Residents for entry into Certified Apprentice Programs.

Sec. 2-1661. Certified Apprentice Programs Registry.

AWDA shall develop and maintain a registry of Certified Apprenticeship Programs.

Sec. 2-1662 Targeted Hiring Requirements; Prevailing Wages.

- (a) At least 10% of all construction work hours performed under a Construction Contract shall be performed by Apprentices. In determining compliance with this provision, construction work hours performed by individuals who are residents of states other than Georgia shall be excluded from the calculation.
- (b) At least fifty percent (50%) of all construction work hours performed under a Construction Contract shall be performed by Skilled Construction Workers. In determining compliance with this provision, construction work hours performed by individuals who are residents of states other than Georgia shall be excluded from the calculation.
- (c) Each Construction Contractor shall include a hiring plan explaining how it will meet the above targeted hiring requirements of this Section with any bid submission related to a Construction Contract, which shall include a listing of anticipated construction work hours by trade.
- (d) Each Construction Contractor shall pay Prevailing Wages for all construction work hours performed under a Construction Contract.

- (e) The City and each Developer and Construction Contractor shall ensure that the above requirements of this Section are included as material terms in any Construction Contract.

Sec. 2-1663 Good Faith Efforts to Comply.

Where a Construction Contractor has not met the requirements of subsections 2-1662 (a) and (b) above, that Construction Contractor may be deemed to be in compliance with those subsections where it can show that it has attempted in good faith to comply by demonstrating that it did all of the following:

- (a) contacted all Certified Apprentice Programs on the AWDA registry to identify Apprentices;
- (b) convened pre-bid and pre-construction meetings to educate its managers and subcontractors on the requirements of this policy;
- (c) developed and submitted a detailed, realistic hiring plan for meeting the targeted hiring requirements;
- (d) contacted AWDA to seek its assistance with identifying Apprentices;
- (e) Provided regular reports to AWDA on its compliance prior to and during its work on the Converged Project; and
- (d) documented why despite these efforts, it was unable to meet the requirements of this Section 2-1662.

Division 4 Atlanta First Source and Jobs Training Oversight Committee

Sec. 2-1676. Composition; qualifications; terms of office.

- (a) The first source policy advisory board shall be hereby reconstituted and renamed the Atlanta Community Benefits Jobs Policy Oversight Committee. The Committee shall be composed of 13 members who shall select a chair from the membership of the board. The Mayor shall select nine members of the Committee, who shall have the following occupational or professional backgrounds or entity affiliations:
 - (1) one appointee shall have a demonstrated background in job training programs or activities;
 - (2) one appointee shall have a demonstrated background in job placement;
 - (3) one appointee shall have a demonstrated background as an owner or executive in a business that employs more than 100 persons;

- (4) one appointee shall have a demonstrated background in commercial development;
- (5) one appointee shall have a demonstrated background as a member of a buildings or trade union;
- (6) one appointee shall have a demonstrated background in either public or vocational education;
- (7) one appointee shall have a demonstrated background in social services;
- (8) one appointee shall be a member of the AWDA Board of Directors; and
- (9) one appointee shall be a member of the Atlanta Development Authority Board of Directors.

The President of the Atlanta City Council shall have one appointment. Three members of the Committee shall be selected by the Atlanta City Council based upon the following procedures. Each set of four district council members and the corresponding at large councilmember shall nominate one member of the Committee. If the nomination is unanimous from the five councilmembers, then such nominee shall become a member of the Committee without need for further council action. If there is a division among a set of five councilmembers, then a person receiving the support of a majority of such councilmembers shall be presented to the full council for confirmation. Neither the Mayor's appointees nor the Council President's appointees shall require council confirmation. The City's Chief Procurement Officer, or his/her designee, the City's Commissioner of Human Resources or his/her designee and the Director of the Office of Contract Compliance or his/her designee shall serve as ex-officio, nonvoting members of the Committee. AWDA shall provide the staff necessary to support the activities and functions of the Committee.

- (g) Upon election of the Chair of the Committee, the chair shall create three classes of board members, one class of four members with a one year term, a second class of four members with a two year term and a third class of five members with a three year term. After these initial classes are established, all Committee member terms shall be for three years. Each Committee members whose term has expired shall serve until their successor has been appointed and taken office.
- (h) Vacancies shall be filled for an unexpired term in the same manner and from the same membership classifications as the initial appointment. No person shall serve as a member longer than two full three year terms. For purposes of applying this term limit, the one year and two year terms of the initial committee members shall not count against this limit.

Sec. 2-1677 Compensation.

Each member of the first source policy advisory board shall be paid \$25.00 for each meeting that the board member attends, but the total amount so paid any member shall not exceed the sum of \$300.00 in any one calendar year.

Sec. 2-1678 Staff.

The executive branch shall provide such staff as is required for the efficient operation of the Committee.

Sec. 2-1679 Annual Report

AWDA shall issue on or before March 1st of each calendar year an annual report setting forth pertinent details regarding the City's progress under this article, statistics showing the placement of Low-Income City Residents into Permanent Jobs, and the utilization of Apprentices and Skilled Construction Workers under by Construction Contractors. AWDA shall issue this annual report to the Committee, to all members of the Atlanta City Council and the Mayor. In addition, AWDA shall make a verbal presentation to the Committee and to the committee of purview of the Atlanta City Council.

Division 5. Penalties

Sec. 2-1680. Penalties.

Upon a determination by the Office of Contract Compliance that a Beneficiary, Construction Contractor, Developer or End User has failed to comply with any portion of this article, the City may impose any or all of the following penalties, based upon a determination of the severity of the noncompliance by the beneficiary or contractor:

- (1) Withholding from the Beneficiary, Contractor, or Developer in violation ten percent of all future payments under the Covered Project or the Construction Contract until it is determined that the Beneficiary or Contractor is in compliance.
- (2) Refusal of all future bids on city projects or applications for financial assistance in any form from the city or any of its departments or divisions, until such time as the Beneficiary, Contractor or Developer demonstrates that it has cured its previous noncompliance.
- (3) Cancellation of the Covered Project.

These penalties are in addition to whatever additional remedies may be available to the City under the Construction Agreements, any other agreement with the Beneficiary, Contractor, or Developer, or at law or equity.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Atlanta Community Job Training & Employment Policy Proposal

The purpose of this document is to outline the basic components of the proposed revisions to the City of Atlanta's existing First Source Jobs Policy, which will reconstitute the components of that policy into the Atlanta Community Job Training and Employment policy. The implementation of the program will still fall within the Atlanta Workforce Development Agency.

Proposed Policy Revisions

- ***Expanding Job Creation:***
 - Existing First Source Policy – Requires that local residents be hired for 50% of all entry level jobs, defined as any non-managerial, nonprofessional or nontechnical job position
 - Proposed Change – The proposed policy would expand job opportunities from entry level positions only to include goals of 50% of all positions for both unskilled workers and those workers with advanced skills or enrolled in training programs to receive advanced skills.
- ***Defining Measurements by Job Type:***
 - Existing First Source Policy – Utilizes the same goals and measurements for all types of jobs created by a contract.
 - Proposed Change – The proposed policy would distinguish between permanent jobs and construction jobs in order to ensure the accurate measurement and evaluation of the unique job types and skill sets.
- ***Construction Skills Development:***
 - Existing First Source Policy – No reference to skills development or workforce development concerns.
 - Proposed Change – The proposed policy would clearly define the requirements for the use of pre-apprenticeship and certified apprenticeship programs in meeting the construction job goals in the policy to ensure that residents are gaining long-term skills and work potential as a result of the program.
- ***Creation of a Trust Fund:***
 - Existing First Source Policy – No specified funding mechanism
 - Proposed Change – The proposed policy would create a permanent funding mechanism for the Atlanta Citywide Job Training and Employment Policy by ensuring that 1.5% of all subsidies are placed into an account to fund the administration of the program.
- ***Oversight Committee:***
 - Existing First Source Policy – Requires the creation of a First Source Advisory Board
 - Proposed Change – The proposed policy would reconstitute the First Source Advisory Board into an Oversight Committee constituted of members with expertise in a variety of fields related to job placement and training. In addition, the Committee would include ex-officio members representing the City of Atlanta Procurement office and the Human Resources department to ensure on-going coordination.